

(i) At the discretion of the hearing examiner, the recipient and the Corporation may be required or allowed to submit post-hearing briefs or proposed findings and conclusions. The recipient's brief shall be served within 5 days of the close of the hearing and the Corporation's 4 days thereafter. Either party should note any relevant transcript errors in an addendum to its post-hearing brief (or if no brief will be submitted, in a letter submitted within the time limit set for a brief; if the transcript or a part of the transcript is not received 4 or more days before the time set for its brief, errors must be noted within 4 days of receipt of the transcript or part of the transcript).

(j) The transcript and any post-hearing briefs or letters will become part of the record.

(k) The Federal Rules of Civil Procedure and the Administrative Procedure Act shall provide guidance for all actions under this part when relevant procedures or rules therein are not inconsistent with the provisions of this part or of relevant laws specifically applicable to such an action.

§ 1625.9 Burden of persuasion.

The recipient shall have the ultimate burden of persuasion by a preponderance of the evidence on the record that the application for refunding should not be denied. If the Corporation has asserted, as a ground for the denial of the application for refunding, the grounds specified in:

(a) Section 1625.3(a), the recipient must establish by a preponderance of the evidence on the record that it is not in a class of recipients affected by the law, the Corporation's rule, regulation, guideline, or instruction, or a funding policy, standard, or criterion approved by the Board or that the proposed action is not required by or will not implement such policy;

(b) Section 1625.3(b), the recipient must establish by a preponderance of the evidence on the record that:

(1) It has complied during the specified period of time in all respects with each specified provision of law, with each specified provision of the Corporation's rules, regulations, guidelines, and instructions, and with each specified term and condition of current or

prior grants from, or contracts with, the Corporation as specified in the notice; or

(2) All of its violations are merely minor, technical or insignificant;

(c) Section 1625.3(c), the recipient must establish by a preponderance of the evidence on the record that:

(1) It has provided economical and effective legal assistance of high quality as measured by generally accepted professional standards, the provisions of the act, or a rule, regulation, or guideline issued by the Corporation; or

(2) The Corporation has not given the recipient prior notice of its failure and an opportunity to take effective corrective action and the recipient could not reasonably be expected to have prevented or corrected its failure without notice from the Corporation and an opportunity to have taken effective corrective action before it received the notice specified in § 1625.4 of this part;

(d) Section 1625.3(d), the recipient must establish by a preponderance of the evidence on the record that it could serve eligible clients in its service area better and more economically than the other organization specified in the notice.

§ 1625.10 Initial decision.

(a) Within 16 days of the completion of the hearing, the hearing examiner shall cause an initial decision to be served upon the parties:

(1) Granting refunding; or

(2) Granting refunding subject to any modification or condition that may appear necessary and appropriate on the basis of information disclosed at the hearing or adduced from the record; or

(3) Denying refunding.

(b) The initial decision shall be a part of the record and shall include a statement of findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record.

(c) Findings of fact shall be based solely on evidence disclosed at the hearing or adduced from the record or on matters of which official notice is taken.

§ 1625.11 Final decision.

(a) If neither the Corporation's counsel nor the recipient requests review by